HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO. 3555 OF 2006

DATED: 23.03.2006

Between:

Ganto Manoj Kumar and another

… Petitioners

and

The District Registrar and another

… Respondents

HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO. 3555 OF 2006

ORAL ORDER:

Heard the learned counsel for the petitioners. There is no representation on behalf of the respondents by the learned Government Pleader.

In respect of an extent of land of Ac.1.22 cents in Sy.No.169/3, Adavivaram village, Chinagadhili Mandal, Visakhapatnam, the landlords/owners executed a General Power of Attorney (GPA) in favour of the petitioners on 25.2.2004. This power was presented on 20.5.2004 to the 2nd respondent for registration. The registration was however not effected and the document was kept pending registration.

By an order dated 9.11.2004, the 2nd respondent declined registration of the GPA executed in favour of the petitioners on the ground that Section 22 of the Registration Act, 1908 (for short 'the Act') was amended by incorporating Section 22-A by A.P. Act 4 of 1999 with effect from 1.1.1999 and that as per this provision the State Government was empowered to declare that the conveyance/registration of certain lands is opposed to public policy and to prohibit the registration of such notified lands by any registering authority. The 2nd respondent also recorded that the lands in Sy.No.169/5 of Adivivaram village had been notified by the Government by the issuance of a prohibitory order in G.O.Ms.No.508 Revenue (Regn.I) dated 28.7.2000 and therefore he declines registration of the GPA as the principals of the petitioners have by the GPA executed in favour of the petitioners, authorized the petitioners as agents to develop the schedule property and to transfer the schedule property under the powers of the GPA. The 2nd respondent's order also recorded that an appeal against this order lay to the 1st respondent.

The petitioners thereupon preferred an appeal to the 1st respondent which was rejected by the order dated 21.5.2005 upholding the order of the 2nd respondent on the self-same grounds; namely the notification issued by the Government in G.O.Ms.No.508, pursuant to the power available under Section 22-A of the Act.

A Division Bench of this court by the judgment dated 21.2.2006 in W.P.No.14099 of 2003 and batch (K. RAMA DEVI V. PRINCIPAL SECRETARY, REVENUE DEPARTMENT, HYDERABAD), following the judgment of the Supreme Court in STATE OF RAJASTHAN V. BASANT NAHATA (1.), declared Section 22-A of the Act, as unconstitutional. As the legislative foundation for the issuance of G.O.Ms.No.508 has ceased to exist and *ab initio* in view of the declaration of the unconstitutionality of the provision (Section 22-A), the prohibitory order of the Government must also be considered as still born. Consequently, the impediment to the registration of the GPA presented by the petitioners to the 2nd respondent has ceased to operate.

For the aforementioned reasons, the 2nd respondent's order dated 9.11.2004 as well as the 1st respondent's order dated 21.5.2005 are set aside. The 2nd respondent is directed to take up the GPA presented by the petitioners for registration and consider its registration if the document is otherwise in order and the petitioners/the presenter of the document complies with the other necessary formalities for registration. The document if otherwise eligible for registration shall be registered and furnished to the appropriate person entitled to receipt of the document. The 2nd respondent shall consider the document for registration within a period of two weeks from the date of re-presentation of the document by the petitioners for registration.

The writ petition is allowed as above. No order as to costs.

GODA RAGHURAM, J

Date: 23.03.2006

cvm